IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2450/2007
(Sinsi Mol Joseph Vs. State of Rajasthan & Ors.)

Date of Order : 09/05/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Anurag Sukla for the petitioner.
Mr. Rameshwar Dave, Dy.G.A. for the respondents.

BY THE COURT:-

Issue notice for final disposal. Mr. Rameshwar Dave, Deputy Government Advocate is directed to accept notice on behalf of the respondents. He accepts the notice.

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks quashing of order Annex-6 dated 30.11.2006 and a direction to the respondents to release payment of maternity leave availed by the petitioner.

I have heard learned counsel for the parties.

The learned counsel for the petitioner submits that the controversy involved in the instant case stands concluded by a decision of this Court in Neetu Choudhary (Smt.) Vs. State of Rajasthan and Ors. 2005 (2) Civil Times, 81 (Raj.). It is reported by the counsel for the parties that a special appeal filed against

the decision in Smt. Neetu Choudhary Vs. State of Rajasthan and Ors. has also been dismissed by the Division Bench and as such, the order of this Court in Smt. Neetu Choudhary has been affirmed by the Division Bench.

In Neetu Choudhary (Smt.) Vs. State of Rajasthan and Ors. (supra) this Court relying on the order of the Government of Rajasthan being Order No. F.12 (1) F.11/54 dated 25.2.1955 declaring the temporary female Government servants entitled for maternity leave, held that the petitioner therein being a temporary female Government servant is entitled for the maternity leave under Rule 103 of the Rules of 1951 and the order dated 30.10.2001 cannot be made applicable upon the petitioner as she is working in temporary capacity though getting consolidated wages. On these premises, the writ petition was allowed and the respondents were directed to sanction maternity leave to the petitioner as applied by her and all benefits consequential thereto be given to her.

Keeping in view the decision of this Court in Neetu Choudhary (Smt.) Vs. State of Rajasthan and Ors.(supra), in my view, the petitioner deserves the similar treatment and is entitled for the maternity leave.

In the result, the writ petition is allowed. The order Annex.06 dated 30.11.2006 is quashed and the respondents are directed to extend the benefit of maternity leave to the present

petitioner as applied by her and all benefits consequential thereto be given to her within a period of two months from the date of production of certified copy of this order before the competent authority. There shall be no order as to costs.

(H.R.PANWAR),J.

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